Office of Chief Counsel Internal Revenue Service

memorandum

CC:LM:MCT:CLE:PIT:POSTF-104845-02

DPLeone

dale. February 14. Zuuz	date:	February	14,	2002
-------------------------	-------	----------	-----	------

to: LMSB:

from: Assoc. Area Counsel (CC:LM:MCT:CLE:PIT)

subject: - Consents

Tax Years Ended:

and

This is in response to your January 22, 2002 request for advice with respect to extensions of the statute of limitations for the tax years ended and This memorandum should not be cited as precedent. This memorandum is subject to 10-day post review by our National Office and, therefore, is subject to modification. We recommend that you contact our office on the first business day more than 10 days after the date on this memorandum to see if there are any suggested modifications.

ISSUES

- 1. After the reverse acquisition on ______, what is the proper name to be used on the Form 872, Consent to Extend the Time to Assess Tax, for the consolidated income tax return filed by ______, Inc. (EIN _______) and Subsidiaries for the tax year ended _____?
- 2. Who should sign the Form 872 for the tax year ended?
- 3. What is the proper name to be used on the Form 872, Consent to Extend the Time to Assess Tax, for the consolidated income tax return filed by _______, Inc. (EIN _______), formerly _______, Inc., and Subsidiaries filed for the tax year ended ______?
 - 4. Who should sign the Form 872 for the tax year ended?

ANSWERS

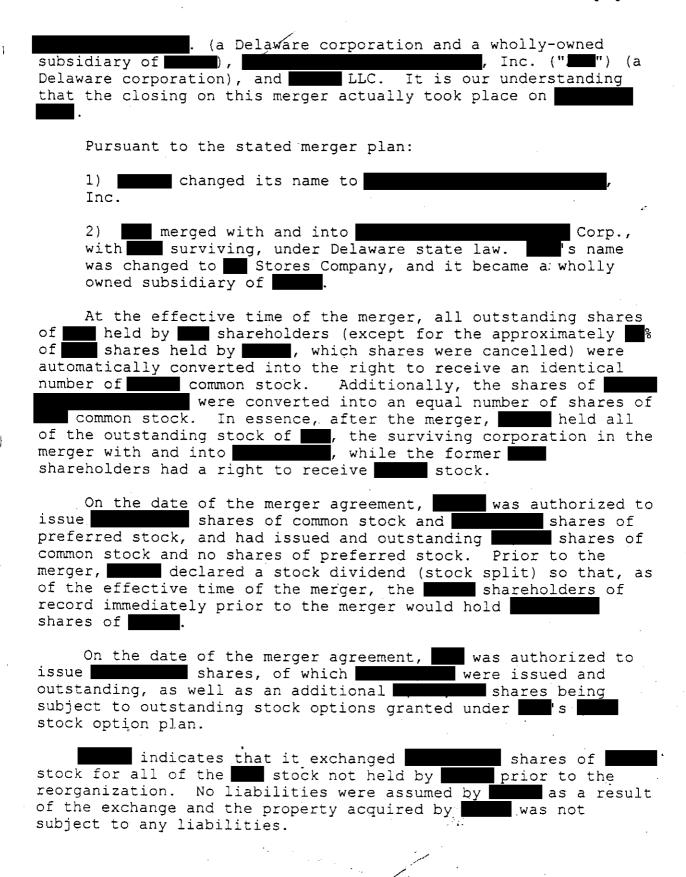
<u> WINDMERO</u>
1. The proper name to use on the Form 872 for the tax year ended is as follows:
formerly known as, Inc., and Subsidiaries*
* This is with respect to the consolidated federal income tax of Inc. (EIN and Subsidiaries consolidated group for the tax year ending
2. The consent should be signed by an individual authorized to act for , Inc. (EIN), formerly known as , Inc. Generally, the president, vice-president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized to act may sign the consent. Rev. Rul. 84-165, 1984-2 CB 305.
3. The proper name to use on the Form 872 for the tax year ended is as follows:
formerly known as, Inc. (EIN), Subsidiaries*
* This is with respect to the consolidated federal income tax of , Inc. (EIN), formerly known as , Inc., and Subsidiaries consolidated group for the tax year ending .
4. Same answer as # 2 above.
<u>FACTS</u>

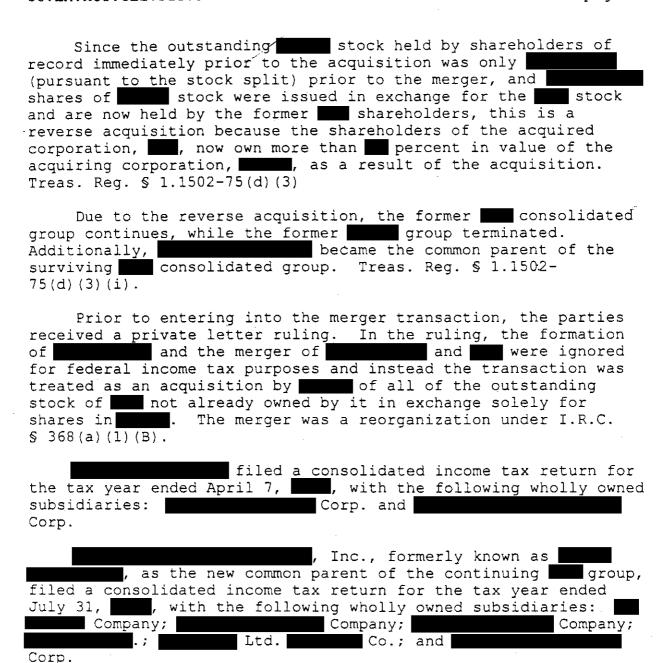
A Plan of Reorganization and Merger Agreement, effective , was entered among ,

¹, Inc ("EIN") (EIN

Delaware corporation, was incorporated on

Please note that, although there has been a name change, we will refer to this entity (EIN throughout our discussion simply as "".





DISCUSSION

was the common parent for the consolidated group for the year ended . Under the consolidated return regulations, the common parent of a consolidated group is the sole agent for each subsidiary in the group. Treas. Reg. \$ 1.1502-77(a). Thus, as the common parent, is the proper party to sign consents, including the Form 872 waiver to extend the period of limitations, for all members in the group. Treas. Reg. \$ 1.1502-77(a). The fact that the tax year ended and the group terminated on the reverse acquisition date does not

extinguish 's authority as common parent for the old group to extend the statute of limitations for that final income tax period.

As to the income tax return for the tax year ended July 31, filed by the consolidated group which continued after the reverse acquisition, which is the now the highest tiered domestic corporation of the continuing consolidated group, is the new common parent and is the agent for the members of the consolidated group for taxable years ending after the reverse acquisition. Treas. Reg. § 1.1502-75(d)(3)(i). As such, has the authority to sign the consent.

Finally, since it is still a relatively new provision, we would like to remind the agent of the requirements under I.R.C. 6501(c)(4)(B). Section 6501(c)(4)(B) provides that the Service shall notify the taxpayer of the following rights: 1) to refuse to extend the period of limitations; 2) to limit such extension to particular issues; and 3) to limit the extension to a particular period of time. This notice must be provided each time an extension is requested. Accordingly, please remember to advise the taxpayer, or its representative, of the section 6501(c)(4)(B) rights either orally (with contemporaneous documentation to the file) or in writing or by providing a copy of Publication 1035, Extending the Tax Assessment Period.

This writing may contain privileged information. Any unauthorized disclosure of this writing may have an adverse effect on privileges, such as the attorney client privilege. If disclosure becomes necessary, please contact this office for our views.

If you have any questions, please call Donna P. Leone at 412-644-3442.

RICHARD S. BLOOM Associate Area Counsel (Large and Mid-Size Business)

By:_______
DONNA P. LEONE
Senior Attorney (LMSB)